

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harry Feigen	Team: Squad #13	CCRB Case #: 201608063	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/20/2016 2:53 PM	Location of Incident: 150th Street and 130th Avenue	Precinct: 113	18 Mo. SOL 3/20/2018	EO SOL 3/20/2018	
Date/Time CV Reported Tue, 09/20/2016 3:38 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/20/2016 3:38 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Brustad	22510	952505	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Matthew Brustad	Abuse: PO Matthew Brustad stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Matthew Brustad	Discourtesy: PO Matthew Brustad acted discourteously toward § 87(2)(b)	
C.POM Matthew Brustad	Abuse: PO Matthew Brustad issued an improper summons to § 87(2)(b)	

Case Summary

On September 20, 2016, § 87(2)(b) filed this complaint with the CCRB by phone.

On September 20, 2016, at approximately 2:50 p.m., § 87(2)(b) was working for the taxi service “Lyft,” and driving two passengers, § 87(2)(b) and her seven-year-old son. As § 87(2)(b) was driving southbound on 150th Street and came to the intersection of 150th Street and 130th Avenue in Queens, a marked police vehicle operated by PO Matthew Brustad of the 113th Precinct drove past § 87(2)(b)'s vehicle in the opposite direction on 150th Street. PO Brustad, who was working alone, made a U-turn and pulled § 87(2)(b)'s vehicle over (**Allegation A**). PO Brustad approached § 87(2)(b)'s vehicle and asked for his license and registration, which § 87(2)(b) provided. PO Brustad was smoking a cigarette at that time, and blew smoke into § 87(2)(b)'s face (**Allegation B**). PO Brustad issued § 87(2)(b) a summons for transporting a passenger under sixteen years of age not wearing a seatbelt (**Allegation C**). § 87(2)(b) then drove away without further incident.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) rejected mediation.
- A notice of claim request was submitted to the NYC Comptroller's office on November 30, 2016. It will be added to the case file upon its receipt (01 Board Review).
- § 87(2)(b)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint.
- PO Brustad has been a member of service for four years. This is the first CCRB complaint on his record.

Findings and Recommendations

Allegation A: Abuse of Authority – PO Matthew Brustad stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation C: Abuse of Authority – PO Matthew Brustad issued § 87(2)(b) an improper summons.

It is undisputed that § 87(2)(b)'s son was not wearing a seatbelt while § 87(2)(b) drove past PO Brustad at the intersection of 150th Street and 130th Avenue in

Queens. It is also undisputed that there was no other reason that caused PO Brustad to stop § 87(2)(b)'s vehicle other than the officer's observation that § 87(2)(b)'s son was a taxi service passenger and was not wearing a seatbelt, for which he issued § 87(2)(b) a summons (03 Board Review).

PO Brustad stated he knew § 87(2)(b)'s vehicle was a taxi due to its license plate, which he recognized as being registered with the NYC Taxi and Livery Commission (TLC) based upon the vehicle's license plate number. PO Brustad made this observation prior to initiating the stop of § 87(2)(b)'s vehicle (04 Board Review). § 87(2)(b) also stated that his license plate was registered with the NYC TLC (05 Board Review). PO Brustad stated he issues two to three summonses per week on average for the vehicle traffic law violation he cited § 87(2)(b) for; that the statute applies equally to taxis as to any other vehicle; and that he had reviewed the statute earlier in the day prior to his traffic stop with § 87(2)(b).

In order to stop a vehicle, an officer must have probable cause that the vehicle has committed a vehicle traffic law violation, or reasonable suspicion that an occupant of the vehicle has committed or is about to commit a crime. People v. Weishaupt, 118 A.D.3d 1100 (3rd Dept. 2014) (06 Board Review).

Section 1229-c, subsection 1c of the New York State Vehicle and Traffic code states that no person shall operate a motor vehicle with a back seat passenger under the age of sixteen unless said passenger is restrained by an approved safety belt. Subsection 9 of this statute states that the above rule shall not apply to taxis, liveries, and buses other than school buses (07 Board Review).

A stop based upon a police officer's mistake of law may still be justified only if the mistake is objectively reasonable, which may be determined based upon whether the law in question is obscure or unclear in its wording. People v. Heien, 134 S. Ct. 1372 (2014) (08 Board Review).

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]

§ 87(2)(b), § 87(2)(g)

Allegation B: Discourtesy – PO Matthew Brustad acted discourteously toward § 87(2)(b)

§ 87(2)(b) alleged that PO Brustad was smoking a cigarette during the vehicle stop, and that he blew smoke into § 87(2)(b)'s face on two occasions (09 Board Review).

§ 87(2)(b) denied that PO Brustad was smoking a cigarette at any point during this incident, or that he ever blew smoke at § 87(2)(b) (10 Board Review).

PO Brustad stated he does smoke cigarettes, but denied that he smoked a cigarette during this incident, or that he ever blew smoke into § 87(2)(b)'s face.

§ 87(2)(b), § 87(2)(g)

Squad: 13

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date